

ALABAMA DEPARTMENT OF REVENUE
REVENUE PROCEDURE 97-003

DATE: November 13, 1997

SUBJECT: Circumstances that Constitute Reasonable Cause as it Relates to Waivers of Civil Penalties Pursuant to Regulation 810-14-1-.33.01

Scope. This revenue procedure is issued pursuant to Section 40-2A-5 to provide guidance as to the applicability of this state's taxing statutes in Section 40-1-1, et seq., Code of Alabama 1975, to define events and circumstances that constitute reasonable cause as it relates to requests by taxpayers for the waiver of civil penalties as prescribed by Regulation 810-14-1-.33.01. This revenue procedure does not apply to penalties abated under Regulation 810-14-1-.05 dealing with the failure of the Department to comply with Section 40-2A-4 of the Code of Alabama 1975.

Definitions. The following terms have the meanings ascribed to them for purposes of this revenue procedure.

Reasonable cause. The standard under which civil penalties may be waived. This standard is a facts and circumstances determination made on a case-by-case basis. The following events are sufficient to constitute reasonable causes:

- (1) death, major illness, unavoidable absence
- (2) casualty or natural disaster
- (3) inability to obtain necessary records
- (4) nonrecurring honest mistake
- (5) reliance on the advice of a competent tax advisor
- (6) reliance on erroneous advice of ADOR personnel

However, the above events are not all inclusive and the taxpayer is not prohibited from providing other reasons sufficient to constitute this standard.

Applicability of taxing statutes and regulations. This revenue procedure provides guidelines for situations whereby civil penalties may be waived pursuant to Regulation 810-14-1-.33.01.

Procedure. Pursuant to Regulation 810-14-1-.33.01, all taxpayers may provide documentation to the department that demonstrates reasonable cause. Such documentation may be provided to the department at any point during an audit or an assessment process. In the event that a taxpayer has appealed to the Administrative Law Division solely involving a request for penalty waiver, such appeals shall be referred to the Department's Associate Director of Taxpayer Advocacy for resolution.

Effective Date. This revenue procedure is effective immediately.

H. E. Monroe, Jr.
Commissioner of Revenue